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Attorneys for Defendant AVR SAN JOSE DOWNTOWN HOTEL LLC

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA**

Case No.: 5:21-cv-00342-BLF

RAFAEL ARROYO,

Plaintiff,

v.

AVR SAN JOSE DOWNTOWN HOTEL
LLC, a Delaware Limited Liability
Company,

Defendant.

**NOTICE OF MOTION AND MOTION
TO DISMISS FIRST AMENDED
COMPLAINT**

Date: September 2, 2021
Time: 9:00 A.M.
Courtroom: 3, 5th Fl.

Hon. Beth Labson Freeman

TO PLAINTIFF AND HIS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on September 2, 2021, or as soon thereafter as the matter may be heard in Courtroom 3 of the above-entitled court, Defendant AVR SAN JOSE DOWNTOWN HOTEL LLC will and hereby does move to dismiss the First Amended Complaint in its entirety, pursuant to Fed. R. Civ. P. 12(b)(6). All of the asserted claims arise from Plaintiff's visit to the Defendant's reservations website (the "Website"), and Plaintiff's claim that the Website fails to provide sufficient information about the accessible features in the accessible guestrooms in violation of the Americans with Disabilities Act and California's Unruh Civil Rights Act. The First Amended Complaint lacks sufficient factual allegations under applicable pleading standards to establish a plausible entitlement to relief with respect to any of the claims asserted.

This motion is based on this Notice and the accompanying Memorandum of Points and Authorities, Request for Judicial Notice, all pleadings and documents on file herein, and on such other and further evidence as may be presented at or before the hearing on this matter.

This motion is made following the conference of counsel which took place on March 8, 2020.

WHEREFORE, Defendant AVR SAN JOSE DOWNTOWN HOTEL LLC respectfully requests that this Court dismiss the First Amended Complaint with prejudice and without leave to amend.

Respectfully Submitted,

STILLMAN & ASSOCIATES



Dated: March 29, 2021

By:

Philip H. Stillman, Esq.
Attorneys for Defendant
AVR SAN JOSE DOWNTOWN HOTEL LLC

PROOF OF SERVICE

I, the undersigned, certify under penalty of perjury that on March 29, 2021 or as soon as possible thereafter, copies of the foregoing Motion to Dismiss, Memorandum of Points and Authorities, the Request for Judicial Notice and Proposed Order was served electronically by the Court's ECF notice to all persons/entities requesting special notice or otherwise entitled to the same.

By: /s/ Philip H. Stillman
Attorneys for AVR SAN JOSE DOWNTOWN
HOTEL LLC